

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION**

-----X	
GLORIA CUKAR,	:
	:
Plaintiff,	: Case No.:
	:
	: Index No.: 2021-50233
vs.	:
	:
COMPASS GROUP USA, INC. and MORRISON	:
MANAGEMENT SPECIALISTS, INC.	:
	:
Defendants.	: DEFENDANTS COMPASS GROUP
	: USA, INC. AND MORRISON
	: MANAGEMENT SPECIALISTS
	: NOTICE OF REMOVAL
	:
-----X	

Pursuant to 28 U.S.C. § 1446, Compass Group USA, Inc. and Morrison Management Specialists, Inc. (“Defendants”) file this Notice of Removal to remove this civil action from the Supreme Court of the State of New York, County of Dutchess, wherein it was filed as Index No. 2021-50233, to the United States District Court for the Southern District of New York, White Plains Division, and shows unto this Honorable Court as follows:

1. On or about January 20, 2021 Gloria Cukar (“Plaintiff”) filed a Verified Complaint in the Supreme Court of the State of New York, County of Dutchess in the civil action styled *Gloria Cukar v. Compass Group USA, Inc. and Morrison Management Specialists, Inc.* Index No. 2021-50233. *See Exhibit A.* Defendants both received service of Plaintiff’s Complaint through the New York Secretary of State on January 20, 2021.

2. On or about April 12, 2021 Defendants responded to the Complaint. See **Exhibit B**. True and correct copy of all process and pleadings served upon in this action to date are attached hereto as **Exhibits A and B** and are incorporated herein by reference.

3. Plaintiff's Verified Complaint alleges that she suffered injury due to a dangerous condition in the cafeteria area of the premises of Mid Hudson Regional Hospital located at 241 North Road, Poughkeepsie, County of Dutchess, New York. (*See* Complaint, generally).

4. This action could have been originally filed in this Court pursuant to 28 U.S.C. §§ 1332 and 1367 because there is complete diversity between Plaintiff and Defendant and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. This Notice of Removal is timely because it is being filed within thirty (30) days after receipt by Defendant of Plaintiff's Response to Demand for Damages dated September 8, 2021 (a true copy of this response is attached hereto as **Exhibit C**) pursuant to Rule 6(a) of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 1446(b)(3) and 1446(c)(3)(A).

DIVERSITY OF CITIZENSHIP

6. Complete diversity of citizenship exists between the parties. Plaintiff's alleges in her Complaint that she is a resident of the County of Westchester, New York. *See* **Exhibit A** at para.

1. Thus, Plaintiff's citizenship for purposes of diversity jurisdiction is New York.

7. Defendant Compass Group USA, Inc. is a Delaware corporation with a principal place of business in North Carolina. *See* **Exhibit B** at paras. 2-5; and, as a result, Compass Group USA Inc.'s citizenship for purposes of diversity jurisdiction is Delaware.

8. Defendant Morrison Management Specialists, Inc. is a Georgia corporation with a principal place of business in Georgia. *See* **Exhibit A-2** at paras. 6-9; and, as a result, Morrison Management Specialists, Inc.'s citizenship for purposes of diversity jurisdiction is Georgia.

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

9. Plaintiff claims damages in the underlying action exceed \$75,000.00. Here, the requisite amount in controversy for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a) has been

satisfied by way of “other paper” contemplated by Federal Rules of Civil Procedure and 28 U.S.C. §§ 1446(b)(3) and 1446(c)(3)(A) in the form of Plaintiff’s September 8, 2021 Response to Demand for Damages (**Exhibit C**). In this discovery response, Plaintiff claims to have been damaged in the amount of Five Million Dollars (\$5,000,000.00). Given the damages alleged, this action fulfills the amount in controversy requirement based on prior trial verdicts in courts located within the Southern District of New York.

PROCEDURAL REQUIREMENTS FOR REMOVAL

10. As required by 28 U.S.C. § 1446(a), attached are copies of all pleadings and orders in possession of Defendant in the removed action. A true and correct copy of the Complaint as served on Defendants is attached as **Exhibit A**.

11. **Exhibits A and B** constitute all the papers and pleadings received by Defendants to date as required by 28 U.S.C. § 1446(a).

12. This Notice of Removal is filed pursuant to 28 U.S.C. § 1441 and within the time prescribed by 28 U.S.C. § 1446.

13. This notice of removal is timely in that the requirements for diversity are met and it is brought within the time period required for removal under 28 U.S.C. § 1441 and Fed. R. Civ. P. 6(a)(1)(C). In addition, the notice of removal is timely in that it was filed within thirty (30) days of receipt of Plaintiff’s Response to Demand for Damages as required by 28 U.S.C. §§ 1446(b)(3) and 1446(c)(3)(A).

THE OTHER REMOVAL PREREQUISITES HAVE BEEN SATISFIED

14. A copy of this Notice of Removal is being filed with the Clerk of the Supreme Court of the State of New York, County of Dutchess, as provided by law, and written notice is being sent to Plaintiff’s counsel.

15. The prerequisites for removal under 28 U.S.C. § 1441 and 28 U.S.C. § 1446 have been met.

16. The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Southern District of New York, and this cause is removable to the United States District Court for the Southern District of New York, White Plains Division, per Rule 18(a)(i) because the claims at issue arose in Dutchess County. *See Exhibit A* at para. 11.

17. If any question arises as to the propriety of the removal of this action, Defendants respectfully request the opportunity to present a brief and oral argument in support of its position that this case is removable.

WHEREFORE, Defendant, desiring to remove this case to the United States District Court for the Southern District of New York, White Plains Division, being the district and division of said Court for the County in which said action is pending, prays that the filing of this Notice of Removal shall effect the removal of said suit to this Court.

Dated: New York, New York
September 13, 2021

Yours, etc.
SHOOK, HARDY & BACON L.L.P.

/s/ Joseph Iemma
Joseph Iemma, Esq.
SHOOK, HARDY & BACON L.L.P.
1325 Avenue of the Americas, 28th Floor
New York, New York 10019
jiemma@shb.com

*Attorneys for Defendants
Compass Group USA Inc. and
Morrison Management Specialists, Inc.*

TO: FINKELSTEIN & PARTNERS, LLP
Attorneys for Plaintiff
Elyssa M Fried, De-Rosa, Esq.
1279 Route 300, Box 1111
Newburgh, New York 12551
(845) 562-0203
EFILE@LAWAMPM.COM

CERTIFICATE OF SERVICE

I hereby certify that I have on September 13, 2021 caused to be served upon Counsel for Plaintiff the **Notice of Removal with Exhibits and Rule 7.1 Statement**, by **ECF and email**:

FINKELSTEIN & PARTNERS, LLP
Attorneys for Plaintiff
Elyssa M Fried, De-Rosa, Esq.
1279 Route 300, Box 1111
Newburgh, New York 12551
(845) 562-0203
efile@lawampm.com

/s/ Joseph Iemma
Joseph Iemma, Esq.